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LIABILITY ON JOINT AND SEVERAL CONTRACTS.—The principles of liability on joint and several contracts and the modifications of these principles by courts of equity and by the legislatures are expounded at some length in a recent article. *Liability of Parties Who Are at the Same Time both Jointly and Severally Liable Ex Contractu*, by Walter L. Chaney, 57 Central L. J. 283 (Oct. 9, 1903). Founded on the analogy of joint-tenancy, says Mr. Chaney, the law of joint and several contracts has developed to satisfy the increasing demands of industry, so that if a contract to-day expressly or by the implied intention and interests of the parties demands it, a liability is imposed on all the promisors together and on each separately. Statutes in some jurisdictions, he continues, have changed the general rule of the common law that all the promisees must join to enforce this liability, and that they must enforce it against either all the promisors together or against each separately. On the principle of *res adjudicata* the weight of authority holds that a joint judgment bars further action on the several contracts, and that individual judgments against the several promisors bar any joint action. Then follows an exposition of the special rules of discharge, liability of personal representatives, contribution, exoneration, subrogation, set-off, and bankruptcy. All partnership contracts, he says, are made joint and several by statutes in England and several of the states, and in others they are so considered in equity for the purpose of satisfying creditors. Finally, in fifteen or more states statutes have made joint contracts joint and several, and for the benefit of the promisees have removed many of the technicalities of the common law. As the authorities both old and recent are freely cited throughout the article, it should prove a useful supplement to previous expositions of the subject.

WATER OVERFLOWING FROM WATERCOURSES.—In certain portions of the United States the right of property owners to protect themselves against flood waters has become an important question, and one which has thrown the courts into considerable confusion. The conflicting decisions are collected and discussed in the current number of the American Law Review. *The Right of Landowners to Deflect upon the Lands of Others Waters Overflowing from Watercourses*, by J. L. Lockett, 37 Am. L. Rev. 713 (Sept.-Oct. 1903). The writer shows that a landowner may not interfere with a watercourse, but, by the so-called common law rule as opposed to the civil law rule, he may protect himself in a reasonable way from surface water, even to the damage of his neighbors. Following this distinction of fact, some jurisdictions hold flood waters of a river part of the watercourse and will not allow them to be deflected; others consider them surface water and allow the landowner to protect his land though the result will be increased damage to adjoining owners. Such conflicting decisions are inevitable, suggests Mr. Lockett, so long as courts attempt to bring flood waters regularly into one or the other of these classes. The true rule, he submits, is that of the courts of California, Louisiana, and Mississippi. Recognizing the unique nature of the overflow waters of our great rivers, these courts treat them as composing necessarily a third distinct class, and decide that a due regard to public interests demands that landowners shall in all cases be free to redeem their lands without liability to others. This frank treatment of conditions unknown to the old law agrees with the result reached by Missouri, Indiana, Washington, and Kansas, which hold the flood waters to be surface water, and apply the common law rule; but disagrees with both the result and the reasoning of the courts of Minnesota, Georgia, Nebraska, and Texas, which classify flood waters as watercourses.

FEDERAL INCORPORATION OF "TRUSTS."—A contributor to the American Law Review proposes a plan by which Congress can exercise effective control over the "Trusts" without the aid of a constitutional amendment. *Federal Control of Corporations*, by John Bell Sanborn, 37 Am. L. Rev. 703 (Sept.-

Oct., 1903). Upon the authority of the case of *McCulloch v. Maryland*, Mr. Sanborn concludes that Congress has the power to incorporate any company engaged in interstate commerce. The Supreme Court has extended the protection afforded by the interstate commerce clause well back into the process of manufacture. *Addyston Pipe and Steel Co. v. U. S.*, 175 U. S. 211. The present writer argues that, therefore, the power of Congress to incorporate must of necessity extend as far. So far as this power exists Congress could exercise it exclusively—prohibit corporations from engaging in interstate commerce except under charters granted by federal law, or accomplish the same result by taxing out of existence corporations owing their existence solely to state law. Upon the question as to how far federal corporations could engage in purely local business, Mr. Sanborn's views are not clearly stated. His position seems to be, however, that such corporations merely by virtue of their federal charter could engage in any local business incident to the carrying on of interstate commerce.

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- ACCORD AND SATISFACTION. *Ben Kendall*. Discussing only the payment of a lesser sum than the whole in satisfaction of a debt. 57 Central L. J. 244.
- BASIS OF EMPLOYERS' LIABILITY FOR ACTS OF THEIR SERVANTS, THE. *A. Pearce Higgins*. Discussing the question by a comparison of the different systems of law. 11 J. of the Soc. of Comp. Legislation, N. S. (London) 109.
- CHIEF JUSTICE MARSHALL AS A CONSTRUCTIVE STATESMAN. *Emlin McClain*. 1 Iowa J. of Hist. and Politics 427.
- CLUB TRUSTEES' RIGHT TO INDEMNITY. *T. Cyprrian Williams*. 19 L. Quart. Rev. 386. See *supra*.
- COMPETENCY OF WITNESS APPEARING BEFORE GRAND JURY AS AFFECTING AN INDICTMENT RETURNED UPON SUCH EVIDENCE. *Anon.* 57 Central L. J. 281.
- CONTRIBUTORY NEGLIGENCE AS AN OFFSET AGAINST FRAUD. 57 Central L. J. 303.
- COURTS CHRISTIAN. *Geo. L. Holmsted*. Discussing their origin, jurisdiction, and present position in the judicial system of Canada. 23 Can. L. J. 369.
- DAMAGES BY FLOOD. *Francis A. Leach*. Discussing liability in cases where damage results from combined divine and human agencies. 57 Central L. J. 264.
- DIVISIBILITY OF THE CONTRACT OF FIRE INSURANCE. *H. R. Bondies*. Discussing the question with especial reference to Texas law. 65 Albany L. J. 307.
- DOCTRINE OF RES GESTAE IN THE LAW OF EVIDENCE. *Sidney L. Phipson*. 19 L. Quart. Rev. 435. See *supra*.
- DUE PROCESS OF LAW. Part I. *Alton B. Parker*. Discussing the origin of the phrase and the decisions with regard to it. 37 Am. L. Rev. 641.
- ENGLISH LAW REPORTING. *Frederick Pollock*. 37 Am. L. Rev. 684.
- FEDERAL CONTROL OF CORPORATIONS. *John Bell Sanborn*. 37 Am. L. Rev. 703. See *supra*.
- FRAUDULENT ALTERATION AND THE EFFECT OF NEGLIGENCE. *G. H. A. Montgomery*. 2 Can. L. Rev. 632. See *supra*.
- GENERAL TAXATION IN ILLINOIS. *George A. Mason*. 36 Chic. Legal News 78.
- HISTORY OF COMPARATIVE JURISPRUDENCE, THE. *Frederick Pollock*. 11 J. of the Soc. of Comp. Legislation, N. S. (London) 74.
- INTEREST IN A MORTGAGE DECREE. *H. S. P.* Discussing the question with reference to The Transfer of Property Act. 5 Bombay L. Rep. 137.
- LIABILITIES OF TRADE UNIONS AND THEIR MEMBERS. *A. C. Galt*. Discussing the liabilities of an unregistered trade union in Canada. 2 Can. L. Rev. 627.
- LIABILITY OF PARTIES BOTH JOINTLY AND SEVERALLY BOUND EX CONTRACTU. *Walter L. Chaney*. 57 Central L. J. 283. See *supra*.

- MARINE INSURANCE BILL, THE. *Arthur Cohen*. Criticising the proposed English Bill. 19 L. Quart. Rev. 367.
- OLDEST CODE OF LAWS, THE. *F. W. Maitland*. Discussing lightly and briefly the recent discovery of an ancient Babylonian Code of Laws. 11 J. of the Soc. of Comp. Legislation, N. S. (London) 10.
- PUBLICATION OF BERTILLON MEASUREMENTS AND PHOTOGRAPHS. *Anon.* 57 Central L. J. 261. See *supra*.
- REMUNERATION OF TRUSTEES AND EXECUTORS. *Edward Manson*. Comparing the law in various jurisdictions. 11 J. of the Soc. of Comp. Legislation, N. S. (London) 185.
- RIGHT OF AN ADULT CHILD TO RECOVER FOR SERVICES RENDERED TO A PARENT. *Colin P. Campbell*. 57 Central L. J. 323.
- RIGHT OF PRIVACY, THE. *W. Archibald McClean*. 15 Green Bag 494.
- SOME PECULIARITIES OF THE ADMIRALTY LAW. *John C. Walker*. 7 Law Notes (N. Y.) 128.
- TRADE UNIONISM AND LEGISLATIVE REFORM. *D. R. Chalmers-Hunt*. 11 J. of the Soc. of Comp. Legislation, N. S. (London) 161. See *supra*.
- VESTING OF STREETS IN LOCAL AUTHORITIES. *Anon.* Discussing question under English statutes. 67 Justice of the Peace 457, 470.
- WATER OVERFLOWING FROM WATERCOURSES. *J. L. Lockett*. 37 Am. L. Rev. 713. See *supra*.

II. BOOK REVIEWS.

LITTLETON'S TENURES. In English. Edited by Eugene Wambaugh. Washington, D. C.: John Byrne & Co. 1903. pp. lxxxiv, 341.

This volume is a recent addition to the Legal Classic Series, which is a most excellent republication of some of the great classics of our early law. As the first distinctively common law writer whose works have been preserved, Thomas Littleton certainly deserves a prominent place in such a series. Though to-day his book has long since become obsolete for any use in modern legal practice, it is still of great value to a student of the history of the English land laws, and of the feudalistic life and society of the fifteenth century. At some time every lawyer ought to some extent at least to be such a student.

The editor has very wisely not attempted to present a revised or modernized translation from the original law French, but has adopted with few changes the translation used and approved by Lord Coke in his famous commentary. He has added, however, explanatory foot-notes, whenever they are required to throw light upon any obscure, doubtful, or mistranslated passage. This gives the reader the learning of the writer in clear-cut Anglo-Saxon, easily understood by almost any beginner and yet preserving the spirit and methods of thought of a century long passed. This edition should perform excellent service in rendering accessible to any reader a most important work that is too likely to be forgotten in these practical modern days, and in so doing it will be of real influence in the domain of legal history and education.

Perhaps the most interesting part of the book, however, is Professor Wambaugh's chatty little biography of Littleton, which forms the larger part of the introduction. Materials were often scanty, but he has made excellent use of those at hand, and has pieced them out by information as to life and customs in those days, obtained from other sources. This brief sketch makes the great writer seem much more human and real, so that, after reading the introduction, one approaches the Tenures with the feeling that he is studying not merely an ancient treatise on an obsolete system, but that he has before him the writings of a man who thought and worked, argued and decided cases in much the same way as lawyers and judges do to-day. In thus humanizing his subject, the editor has perhaps more than in any other way helped to bring Littleton's little book not only within the reach, but within the under-